

Filed for intro on 02/01/2001

SENATE BILL 1217

By Clabough

AN ACT to amend Tennessee Code Annotated, Section 65-21-105, relative to municipally or cooperatively owned utility or telephone poles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-21-105, is amended by deleting the section in its entirety and by substituting instead the following:

Section 65-21-105.

(a) No municipally or cooperatively owned utility shall request or receive from a telegraph or telephone corporation, or a cable television provider as defined in Section 602(5) of the Federal Cable Policy Act of 1984, in exchange for permission for pole attachments as provided by 47 U.S.C. Section 224(a)(4), any payment in excess of the amount that would be authorized pursuant to 47 U.S.C. Section 224, as amended.

(b) No municipally or cooperatively owned utility shall request or receive from a telegraph or telephone corporation, any in-kind payment in exchange for or as a condition upon a grant of permission for pole attachments.

(c) A municipally or cooperatively owned utility shall provide access to its poles and conduit located in public rights of way to any telegraph and telephone corporation or cable television who requests a pole attachment agreement on terms and conditions consistent with this section and other applicable law. Such pole attachment agreements may be refused only on the basis that the provision of the requested access is not technically feasible. Any telegraph and telephone corporation or cable television provider who is denied such an agreement may bring a suit for a declaratory judgment or injunction, or both, to determine and enforce its rights to such an agreement in any chancery or district court of competent jurisdiction. A municipally owned or cooperatively owned utility shall apportion the costs of providing usable space on its poles among all entities according to the percentage of usable space required for each entity; but the costs of any relocation of existing users shall be borne by the entity or entities creating the necessity for such relocation.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.